

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	2:05-cv-1178-WKW -DRB
)	
HORACE MILTON BLACK)	

**GOVERNMENT’S RESPONSE TO DEFENDANT’S
STATEMENT OF FINAL CLAIMS**

COMES NOW the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, responds to the defendant’s Statement of Final Claims as follows:

1. The Government incorporates by reference the previously filed Response to Defendant’s Motion pursuant to Section 2255 (Doc. 4) .

2. The Defendant asserts two claims in his Final Statement of Claims (Doc. 27). Specifically, the defendant reasserts that his counsel was ineffective for failing “to follow the request of Petitioner in that Petitioner asked that an appeal be filed.” (See Doc. 27) This issue was addressed extensively in the Government’s Response to Defendant’s Motion pursuant to Section 2255 (Doc. 4). Thus, the government will not repeat itself, but relies on the law and facts argued in said response.

3. Defendant lastly contends that his counsel was ineffective for failure to secure or investigate State records which would have negated any Career Offender enhancement. However, defendant’s assertions are contrary to facts. Counsel filed an affidavit with the court stating that he did indeed obtain those state court records. Further, counsel attached said records to his affidavit. (Doc. 24-2) Clearly, counsel did indeed investigate the issue of Defendant’s possible career offender status and therefore, cannot

be found ineffective.

4. For the above-stated reasons, the Defenant/Movant has failed to demonstrate that he is entitled to any relief from this Court, and his § 2255 motion should be denied without an evidentiary hearing.

Respectfully submitted, this the 30th day of August, 2006.

LEURA G. CANARY
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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Pate Debardeleben, Esquire and Terry Russell Smyly, Esquire.

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